

GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR DEPARTMENT (LABOUR)

*Labour Dispute.*—Industrial Dispute between the workmen and the management of Tainadu Publications, No. 22, Cubbon Road, Bangalore-1.

Award of the Labour Court, Bangalore published.

Read the following papers :

(1) Letter No. 1685/67-68, dated 27th March 1968 from Shri P. T. Kadkol, Presiding Officer, Labour Court, Bangalore.

BEFORE THE PRESIDING OFFICER, LABOUR COURT,  
BANGALORE.

*Dated this 27th day of March 1968.*

PRESENT :

Sri P. T. Kadkol, B.Sc., LL.B.

*Presiding Officer.*

*Reference No. 87 of 1966.*

Working Journalists represented by the General Secretary,  
Mysore State Journalists' Association, District Office Compound,  
Bangalore-2. .. *First Party.*

*Vs.*

The Management of Tainadu Publications, No. 22, Cubbon  
Road, Bangalore-1 .. *Second Party.*

REFERENCE :

*G. O. No. LMA 49 LLD 66, dated 28th June 1966.*

AWARD

The Government of Mysore being of opinion that an industrial dispute exists between the workmen and the management of M/s. Tainadu Publications, Bangalore, have referred it to this court for

adjudication under Section 10 (1) (c) of the Industrial Disputes Act, 1947, by their Order No. LMA 49 LLD 66, dated 28th June 1966, setting out the following points of dispute for adjudication :—

- “1. Is the action of the Management of Tainadu Publications, Ltd., in retrenching the services Sriyuths M. T. V. Acharya, Chief Artist, S. Venkat Rao, Joint Editor of Kailas and T. R. Varaha Murthy, Artist, *bona fide* and justified?
2. If not, to what reliefs are the employees mentioned above, entitled?
3. To compute the reliefs, if any, awarded, in terms of money, if they can be so computed.

2. Tainadu Publications Ltd., Bangalore, is a news-paper establishment at Bangalore. It publishes a daily newspaper by name Tainadu, a weekly by name Gokula and a monthly by name Kailasa. The three persons covered by this Reference were employed in this news-paper establishment. The Management thereof has terminated their services, as a measure of retrenchment. The termination of their services, is the subject matter of this Reference. Their cause has been sponsored by the Mysore State Journalists' Association, Bangalore. It is a Registered Trade Union. This Union, is the First Party and the Management of the Establishment is the Second Party in this proceeding. Advocate Mr. K. Subba Rao, has appeared for the Union and Advocate Mr. Alvares, has appeared for the Management.

3. In response to the notice issued by this Court, the Union has submitted its claim statement dated 2nd September 1966 and the Management has submitted its statement of objections dated 19th September 1966 and the Union has submitted its rejoinder thereto dated 3rd October 1966.

4. The substance of the contentions raised by the Union in the claim statement is this :

The three persons covered by this Reference are “Working Journalists”; their services have been illegally terminated by the Management, with ulterior motives and *mala fide*; even the alleged retrenchment is illegal since it has not been done in accordance with law; the Management has victimised them; hence the orders of their termination from service be set aside and they be directed to be reinstated etc.

5. The substance of the contentions raised by the Management is this :

The present dispute is only an individual dispute since the three persons under Reference appear to have joined the First Party Union, after they were validly retrenched; they are not all "Working Journalists"; hence this Reference is not maintainable; they have been legally and validly retrenched in accordance with law; an offer of retrenchment compensation made, was refused by them; the Management has not acted in a spirit of victimisation or *mala fide*; hence the Reference be rejected, etc.

6. In the Rejoinder to the above objection statement, the Union has denied the assertions made by the Management and reasserted the averments made by it in the claim statement.

7. On these pleadings, the following additional issues have been framed on 3rd October 1966 (*vide* Order Sheet) and set down for hearing :—

- (1) Are Mr. M. T. V. Acharya and Mr. Varaha Murthy, Working Journalists as defined in the Act ?
- (2) If not, is this Reference maintainable ?
- (3) Does the First Party prove that the retrenchment of these three aggrieved workmen is not legal and justified?
- (4) Has Acharya refused to accept compensation, though offered ?
- (5) Are the three aggrieved workmen entitled to reinstatement ?
- (6) What is the exact amount due to them as Retrenchment compensation ?
- (7) What Order ?
- (8) Does the retrenchment effected by the Second Party Management, contravene the provisions of Section 33 of the Industrial Disputes Act ?

Parties were directed to lead evidence on these issues and they have done so. The Union has examined three witnesses and produced some documents. The Management has not led any oral evidence but has only produced some documents.

8. Both the parties are agreed on the point that this dispute is governed by the Working Journalists (Condition of Service) and Miscellaneous Provisions Act, 1955 (Central Act No. 45 of 1955). The three persons concerned in this dispute are, (1) Mr. M. T. V. Acharya, (2) Mr. T. R. Varaha Murthy and (3) Mr. S. Venkatrao.

The Union has submitted the Memo marked Ex. A on 18th January 1967, stating that it does not press the case of Venkatrao as his claims against the Management have been settled out of Court.

9. The first question arising for consideration is whether Acharya and Varaha Murthy are "Working Journalists" as defined in Section 2 (f) of the Act (By Act, I mean Central Act 45 of 1965 mentioned above). Section 2 (f) of the Act runs as under:—

"2 (f) "working journalist" means a person whose principal avocation is that of a journalist and who is employed as such in, or in relation to, any news paper establishment, and includes an editor, a leader-writer, news editor, sub-editor, feature-writer, copy-tester, reporter, correspondent, cartoonist, news-photographer and proof-reader, but does not include any such person who—

- (i) is employed mainly in a managerial or administrative capacity, or
- (ii) being employed in a supervisory capacity, performs, either by the nature of the duties attached to his office or by reason of the powers vested in him, functions mainly of a managerial nature ; "

This Act has come in the place of the Working Journalists (Industrial Disputes) Act, 1955, by repealing it (*Vide* Section 21 of the Act). The Working Journalists (Industrial Disputes) Act, also defined a "Working Journalist" in Section 2 (b) thereof. The definition given in Section 2 (b) of that Act is identical with the definition given in Section 2 (f) of the present Act. The leading authority on the interpretation of Section 2 (f) of the Act is the decision of the Supreme Court reported in 1963—2—LLJ 385 (*Express Newspapers Ltd.,—Vs.—B. Somayajulu*). It has been laid down therein that a person can claim the status of "Working Journalist" within the meaning of Section 2 (b) of the old Act, i.e., Section 2 (f) of the present Act, only when he can show—

- (a) that his principal vocation or calling is that of journalism ;
- (b) that he is employed as such in a newspaper establishment ;  
and
- (c) that he is in the exclusive employment of the owner of that establishment.

10. According to the Union, Acharya as well as Varaha Murthy satisfy all these conditions. On the other hand the contention of the Management is that Acharya was appointed as Chief Artist and Varaha Murthy as an Artist and both of them are not even journalists, much less, working journalists. The further contention of the Management with regard to Acharya is that he was the head of the

Department and was employed mainly in a managerial or administrative capacity or in a supervisory capacity and by the nature of the duties attached to the office or by reason of powers vested in him, was performing functions mainly of a managerial nature. The Management does not dispute that Tainadu Publications is a newspaper establishment as defined in Section 2 (d) of the Act and that, Acharya as well as Varaha Murthy were in its exclusive and full time employ.

11. Acharya does not dispute that he is an Artist. He was working as an Artist in the "Chandamama Publications" Madras, for some years, before 1964. The proprietor of the second party establishment is one Mr. M. S. Ramaiah. Khadri Shamanna (W.W. 2) was in the employ of the second party as Editor "Gokula" having joined the establishment in March 1963. He was knowing Acharya then working in Madras, for some years. The Second Party felt the need of a well known Artist (so has stated Khadri Shamanna) for illustrating Tainadu, Gokula and Kailasa. So Ramaiah asked Khadri Shamanna to find out if one was available. Khadri Shamanna thought of Acharya. He started correspondence with Acharya. Exts. W. 1 to W. 3 are the letters written by him to Acharya, in that connection. Mr. C. N. Aiah, well connected with Ramaiah also wrote the letter Ex. W. 4 to Acharya, in the same connection. Acharya came down to Bangalore. There were some discussions and negotiations between the parties, at the end of which Ramaiah offered some terms to Acharya as set out in Ex. W. 5, dated 28th May 1963 and asked him to report to duty, if the terms were acceptable to him. Acharya accepted them by the letter Ex. W. 6, dated 5th June 1963 and reported himself for duty on 24th June 1963 and gave the joining report Ex. 6 A.

12. Acharya was carrying on his work. On 29th September 1965, he wrote the letter Ex. W. 9 to the Management demanding the increment that fell due to him in July 1966. He also asked the Management therein to sanction and pay the increments due to the other employees in the Art Department.

13. On 9th October 1965, however, the Management wrote the letter Ex. W. 7 to Acharya as under :—

"The Management has come to the conclusion that the termination of your services has to be ordered as being of surplus labour and has passed the order of retrenchment against you. You are, therefore, hereby given notice of one month and you will not be on the rolls of the Company from 8th November 1965".

14. On receiving this letter-cum-notice, Acharya wrote the letter Ex. W. 8 to the Management on 12th October 1965. He asked

the Management therein (1) to grant him privilege leave from 14th October 1965 to 6th November 1965 (both days inclusive) and also pay him the balance of the salary for September 1965. On the next day, i.e., on 13th October 1965, he wrote the letter Ex. W. 7 A to the Management challenging his termination as *mala fide* and illegal. Acharya was granted the leave asked by him. He proceeded on leave on the 14th October. The leave expired on 6th November. The next day, 7th November, was a Sunday. So, he reported for duty on 8th November and gave the joining report Ex. W. 10 (a). The Management did not allow him to join duty Ex. W. 10 (b) and referred him to its letter, dated 9th October 1965 (Ex. W. 7). It also asked him to meet the Manager and get his accounts settled and handover all books, periodicals, etc., to the Manager forthwith. Ex. M. 1 is a copy of Ex. W. 10 (b). Acharya wrote back on the same day asking the Management to withdraw the termination notice Ex. W. 10 (c). The Management also offered to pay him (Acharya) a sum of Rs. 1,622.22 in full settlement of his accounts Ex. W. 10 (d) and Ex. M. 2. This amount is made up of a sum of Rs. 608.89 by way of salary for October 1965, a sum of Rs. 213.33 by way of salary for 8 days in November 1965 and a further sum of Rs. 800 by way of retrenchment compensation. Acharya declined to accept this amount in full settlement of his claims, by his letter Ex. M. 3 but expressed his willingness only to accept his salary for October 1965. This was not acceptable to the Management. Then Acharya wrote the letter Ex. M. 5 to the Management (Ex. W. 11 is its copy) on 12th November 1965 informing it that since his termination was bad in law, he still deemed himself to be in service and demanding his salary for October 1965. To this letter, the Management gave its reply (Ex. M. 7) on 13th November 1965 sticking up to its own stand. Ultimately, the parties did not agree on anything. The conciliation proceedings also failed. Thus the dispute has come before this Court. This is in short, the history of Acharya's service under the Second Party.

15. Varaha Murthy had joined service under the second party, as an Artist, earlier than Acharya. Ex. W. 16 is the letter of his appointment. It is dated 14th June 1963. The Management terminated his services also by issuing him the Notice Ex. W. 17, dated 9th October 1965. This notice Ex. W. 17, dated 9th October 1965 is identical in its text with the notice issued to Acharya (Ex. W. 7) the same day. On receiving Ex. W. 17, he wrote the letter Ex. W. 15 to the first party Union complaining against his termination and requesting it to take up his case. He also wrote the letter Ex. W. 18 to the Management. In Ex. W. 15 as well as Ex. 18, Varaha Murthy accepted his retrenchment and demanded only retrenchment compensation. Ex. M. 10 is the original of Ex. W. 18 written by Varahamurthy to the Management.

16. Acharya as well as Varaha Murthy are members of the first party union since many months before their termination, as can be seen from the receipts at Exts. W. 12 and W. 14.

17. Now it is quite true that Acharya has been designated as Chief Artist and Varaha Murthy has been designated as "Artist" in relation to the posts held by them. But the question whether they are or are not journalists or working journalists, can not be decided merely on the basis of the designations given to the posts held by them. That question requires to be determined on the basis of the duties, they were required to perform and were actually performing. This is the principle laid down in many judicial decisions, notable among them being the Supreme Court decisions reported in 1961 (2) LLJ 117 (Andhra Scientific Co.-Vs.-Seshagiri Rao) and 1961 (2) LLJ 94 (May & Baker-Vs.-Their Workmen).

18. The Management has informed Acharya in Ex. W. 5 that—

1. he will be in complete charge of the Art Department for all of its publications as chief artists and he would be independent in his work subject to the control of the proprietor;
2. he will be started on a salary of Rs. 750 in the grade Rs. 750-50-1,000;
3. he will be provided with the necessary staff and equipment;
4. he shall devote his undivided attention and energy for the artistic excellence; and
5. he will be governed by the service rules applicable to the establishment.

Acharya has admitted Ex. W. 5 and accepted the conditions mentioned therein.

19. In his deposition, Acharya has stated that his duties, as Chief Artist, were :—

1. To prepare designs and drawings to the editorial articles in the three publications, Tainadu, Gokula and Kailas, including cartoons and features and cover designs and lay out ideals;
2. To contribute a one page feature to Gokula every week; and
3. To guide and assist other artists, who in turn were to assist him.

His witness Khadri Shamanna has stated that Acharya's nature of work was purely journalistic illustrations of the publications, and

added that he used to illustrate strips, draw cartoons and weekly picture serials and other illustrated features. These statements made by Acharya and Khadri Shamanna are not seriously disputed by the Management nor has any evidence been led by it, to the contrary. Acharya has also produced some specimens of his work at Ex. W. 13. The first eight documents with Ex. W. 18 are the cartoons drawn by Acharya, to suit the fourline couplets contributed by one Dinakar Desai to the Gokula. In such cases the cartoon is to be drawn to fit in with the idea expressed in the text. If we compare the idea conveyed in the couplet, with the cartoon drawn, one will be in doubt (unless the knows the fact before hand) whether the cartoons has been drawn to fit the idea in the couplet, or the couplet has been written to suit the cartoon. The writer of the couplet can, without doubt, be classified as a journalist. The person drawing the cartoon, will convey the same idea, not by writing a few lines, but by drawing pictures. This is also journalism, though it may be of a different kind. The 9th and 10th documents with Ex. W. 13 are colour designs meant for Kailasa. The 11th documents is an editorial design. The documents at 12 to 15 are one page features contributed by Acharya to Gokula. The 13th document is an illustrated serial story headed as "Udayana". The 14th and 15th documents are an illustrated serial story headed as "Chatura Chanakya". They are weekly features. In the case of the documents at Nos. 12 to 15, the writer of the story—it is a continuing serial—as well as the cartoonist is Acharya himself. All these can not but be the work of a journalist. An Artist, pure and simple, may be able to draw cartoons. But to draw a cartoons fitting a given article or couplet and to contribute a story serially with appropriate cartoons can not but be considered as journalism. It is thus clear that Acharya was working as a feature writer as well as cartoonist as part of the employment. A cartoonist and a feature writer are specifically included in the definition of a "Working Journalist", given in Section 2(f) of the Act. Acharya was doing the same kind of work in the "Chandamama" publications at Madras. He was doing the same kind of work under the second party also. It is not shown that he has any other vocation or has been following any other vocation. He had been employed as a full time employees by the Second party. Though designated as "Chief Artist" he was very regularly required to work as a cartoonist and feature writer. It is thus evident that he satisfies all the three conditions mentioned by the Supreme Court in 1963 (2) LLJ 385.

20. It is, however, the contention of the Management that Acharya was the head of the Art Department with some other employees to assist him and he was doing managerial, administrative and supervisory work. The management's learned representative

has cross-examined Acharya on these lines but has not been able to elicit anything to support his contention. The Supreme Court has laid down in *Premasagar Vs Standard Vacuum Oil Company*, Madras (1964 I LLJ 47) some tests to determine whether an employee was working in a managerial or administrative or supervisory capacity. Of course, it is a case under the Madras Shops and Establishments Act. But the tests laid down therein are applicable to the present case also. The Supreme Court has observed :—

“It is difficult to lay down exhaustively all the tests which can be reasonably applied in deciding the question whether a particular employee is employed in the position of Management and been exempted under Section 4(1) (a) of the Shops Act, from the provisions of the Act. Several conditions would naturally be relevant in dealing with the problem. It may be enquired whether :—

- (1) the person has power to operate on the bank account ;
- (2) could he make payments to third parties and enter into agreements with them on behalf of the employer ;
- (3) was he entitled to represent the employer to the world at large in regard to the dealings of the employer with strangers ;
- (4) did he have authority to supervise the work of the clerks employed in the establishment ;
- (5) did he have control and charge of the correspondence ;
- (6) could he make commitments on behalf of the employer ;
- (7) could he grant leave to the members of the staff and held enquiries against them ;
- (8) had he power to appoint members of the staff or punish them ;

These and similar tests may usefully be applied to determine the question about the status of the employee”.

If we apply these tests in this case we find that the Management has not proved that Acharya was doing any of the acts mentioned in the above decision, except that he was supervising over the work of his assistants. Questions have been put to him in the cross-examination suggesting that he was maintaining the attendance register with respect to his assistants ; was authorised to sanction leave to them ; was authorised to take disciplinary action against his assistants, etc. Acharya has denied some and pleaded ignorance with respect to some. But the Management could have very well produced records to show that Acharya was really exercising these powers. The Management has led neither documentary nor oral

evidence to show that Acharya was exercising any managerial or administrative or supervisory powers. Even if he was exercising some such powers, he can not be taken away from the category of a working journalist, unless it is proved that he was mainly exercising managerial, administrative or supervisory powers. The significance of the word "mainly" can not be lost sight of. The main duties of Acharya were to do the work of journalistic illustration, cartoon drawing and contributing one page features. Incidental to the main work, he might have been supervising the work of his assistants or even distributing work amongst them. In these circumstances, Acharya can not be brought under the exception clauses (1) or (2) to Section 2(f) of the Act. Hence I hold that Acharya is a "Working Journalist".

21. Now coming to the case of Varahamurthy, we find that he was doing all the work that Acharya was doing, except that he was not doing any designing or feature writing work. He was mainly doing the work of drawing appropriate cartoons to suit the matter intended to be published. He too has produced the specimens of the work that he was doing, with Ex. W. 22. By examining them we find that he was drawing cartoons depicting current political news-items, social items, humorous items, etc. He was also doing the work of narrating incidents and small stories drawing strip cartoons; and writing the matter relating to them. His main and perhaps the only work that he was doing, was the work of a cartoonist. A cartoonist is necessarily a working journalist under Section 2(f) of the Act. Hence, I hold that Varahamurthy also is a working journalist. In view of these conclusions, I record my finding on the first issue in the affirmative. Hence I hold that the Reference is maintainable and record my finding on the second issue accordingly.

22. I now proceed to consider the third issue. The Management claims that it has retrenched Acharya and Varahamurthy. The Union contends that the retrenchment is not legal and not justified. The question is whether the union proves it to be so.

23. Section 3(1) of the Act lays down that the provisions of the Industrial Disputes Act, 1947 as in force for the time being shall apply to or in relation to working journalists as they apply or in relation to workmen within the meaning of that Act, subject to the modification specified in sub-section (2). The modification made by sub-section (2) is this:—

Section 25F of the aforesaid Act, in its application to Working Journalists, shall be construed as if in clause (a) thereof, for the period of notice referred to therein in relation to the retrenchment of a workman, the following

periods of notice in relation to the retrenchment of working journalists had been substituted, namely :—

- (a) six months, in the case of an editor ;
- (b) three months in the case of any working journalist.

24. Now coming to the Industrial Disputes Act, 1947, we find that Section 2(oo) defines Retrenchment and Section 25-F lays down the manner in which it should be effected. All the courts of our country including the Supreme Court have accepted the principle that retrenchment means removal of surplus labour. The Supreme Court has observed in 1964 (1) LLJ 333 (Workmen of Subang Tea Estate Vs. Subang Tea Estate) that workmen may become surplus even on the ground of rationalisation or on the ground of economy reasonably and *bona fide* adopted by the Management or of other industrial or trade reasons and in all such cases the Management would be justified in effecting retrenchment in the labour force. The Management has contended in para 3 of the objection statement that Acharya was retrenched as it "found him to be surplus labour owing to its then economical and financial state." It has given the same reason with regard to the retrenchment of Varahamurthy, in para 5 of the objection statement. But, inspite of it, it has not led any evidence regarding its financial position to show that on that ground, it was justified in retrenching Acharya and Varahamurthy. Whatever it be, it is hardly necessary to say that the Management should have strictly fulfilled the requirements of Section 25-F of the Industrial Disputes Act, before retrenching Acharya and Varahamurthy.

25. Section 25-F of the Industrial Disputes Act, in its application to working journalists would be the same as in its application to workmen, except that the notice period mentioned in clause (a) thereof would be three months, instead of one month. Section 25-F lays down that, no workman employed in any industry, who has been in continuous service for not less than one year under an employer, shall be retrenched until the conditions mentioned in clause (a), clause (b) and clause (c) are satisfied. Clause (a) requires (in this case) the giving of a three months' notice to the working journalists and clause (b) requires the payment of retrenchment compensation, which shall be equivalent to fifteen days' average pay for every completed years of service or any part thereof in excess of six months. We may leave out clause (c) from consideration for the present.

26. Admittedly Acharya as well as Varahamurthy had put in a service of more than one year under the Second Party, when, they were retrenched. Hence, before retrenching them, the management should have given them a three months' notice, under clause (a)

and the full retrenchment compensation due, under clause (b). But the management has retrenched them only by giving one month's notice and not paying them the retrenchment compensation at all. The Supreme Court has laid down in 1960 (I) LLJ 251 (State of Bombay Vs. Hospital Masdoor Sabha) that the provisions of Section 25-F are mandatory and payment of retrenchment compensation as provided therein is a condition precedent to a valid retrenchment and that retrenchment effected without compliance with the requirements of Section 25-F is bad in law and the workmen concerned can claim reinstatement. In later decision reported in 1964 I LLJ 333, the Supreme Court has re-iterated its view. The Calcutta High Court and the Bombay High Courts are of the same view, as can be gathered from 1964 I LLJ 525 (National Iron and Steel Co., Vs. Third Industrial Tribunal) and 1961 (I) LLJ 167 (Devidayal Nanakchand Sharma Vs. State Industrial Court, Nagpur). In the case on hand, the Management has retrenched Acharya as well as Varahamurthy, without satisfying the two conditions precedent. It has neither given a three months' notice nor has paid the due retrenchment compensation before terminating their services, by way of retrenchment. Hence the retrenchment of both of them is bad in law and they can claim their reinstatement. This is the result, we reach, without going into the question of justifiability of the retrenchment. Hence I hold the retrenchment of Acharya and Varahamurthy to be not legal and to be bad in law and record my finding on the third issue accordingly.

27. It is true that Acharya has refused some payment which included some retrenchment compensation, some time after the retrenchment was effected. He has refused it because it was not an unconditional offer. He was asked to accept the amount offered, in full and final settlement of all his claims. Hence the fourth issue shall have to be answered in the negative, in view of the observations made above.

28. Now I proceed to consider the eighth issue. The Union has raised a contention that the Management effected the retrenchment of Acharya and Varaha Murthy during the pendency of the conciliation proceedings, in contravention of Section 33 of the Industrial Disputes Act. But such termination is not null and void as reported in 1960 I LLJ 337 (P. Orr & Sons Vs. Labour Court). Any way, this dispute has been raised now and would be decided herein. Hence no specific finding on this issue is necessary.

29. In view of the decision of the Supreme Court cited above, Acharya as well as Varahamurthy are entitled to claim reinstatement as their Retrenchment is bad in law. Hence I record my finding on the fifth issue accordingly.

30. The sixth issue does not survive as I have held the Retrenchment itself to be bad in law.

31. It appears that the financial position of the second party is not very sound. After hearing the arguments of the learned Advocate for the Second Party, Mr. K. Subba Rao, has submitted the memo marked Ex. B. stating that Acharya and Varahamurthy do not press for their reinstatement and they may be awarded compensation, in case the retrenchment is held to be bad. Mr. Subba Rao has said in the memo that compensation may be awarded in the light of the Supreme Court decision.

32. Acharya has joined the service on 24th June 1963.

His services have been terminated with effect from 8th November 1965. The salary for October 1965 and part of November 1965 is due to him. By now, 2 years and 4 months have elapsed after 8th November 1965. If he were in service, he would have got salary for 28 months. If he were reinstated with full back wages, as he is normally entitled to, he would have been entitled to salary for this period of 28 months. But taking into account the representation of the learned Advocate for the Second Party that the financial position of the establishment is not sound, I think that compensation equivalent to a salary of 18 months would meet the ends of justice.

33. As regards Varahamurthy, the contention of the Management is that he has accepted his retrenchment and only asked for suitable compensation, in his letter to the Management, dated 14th October 1965 (Ex. M. 10 and Ex. W. 18). But I have held that the retrenchment is bad in law. If the management had paid Varahamurthy the amount demanded by him in Ex. M. 10, then, the matters would have been different. The management has not paid it. Hence Varahamurthy has withdrawn his offer. He cannot be compelled now to stick up to the offer made by him in Ex. M. 10. Hence, I hold that the interests of justice demand that he too be paid a compensation equivalent to his salary of 18 months. This conclusion reached by me will cover the 3rd point of dispute also, set out in the order of reference.

34. I have fixed the compensation taking into consideration the fact that both Acharya and Varahamurthy are still young and quite capable of working and earning.

35. In the result, therefore, I make the following Award.

## AWARD.

1. Reference is accepted.
2. The retrenchment orders passed by the Management against M. T. V. Acharya and T. R. Varahamurthy are held to be bad and are hereby set aside. They are not directed to be reinstated in view of the memo Ex. B. which should be annexed to this Award and be deemed as forming part of it.
3. The Management is directed to pay compensation equivalent to his 18 months salary to M. T. V. Acharya at the rate he was drawing it on 8th November 1965, as compensation for his wrongful termination and also pay him, in addition, his salary for October 1965 and eight days in November 1965, provided that it has not been paid so far.
4. The Management is directed to pay compensation equivalent to his 18 months' salary to T. R. Varahamurthy at the rate he was drawing it on 8th November 1965 as compensation for his wrongful termination and the arrears of salary, if any, for the period before 8th November 1965.
5. The claim of T. Venkat Rao is rejected in view of the Memo Ex. A, which should be annexed to this Award and be deemed as forming part of it.
6. Parties do bear their own costs.

P. T. KADKOL,  
*Presiding Officer,*  
*Labour Court, Bangalore.*

"Copy,"

P. T. KADKOL,  
*Presiding Officer,*  
*Labour Court, Bangalore.*

BEFORE THE HON'BLE PRESIDING OFFICER, LABOUR  
 COURT, BANGALORE.

*Ref. No. 87 of 1966.*

*First Party—*

Sri M. T. V. Acharya, T. R. Varahamurthy and Sri S. Venkata  
 Rao represented by Karnataka Union Working Journalists.

*Vs.*

*Second Party.—*

Management, Tainadu Publications, 22, Cubbon Road,  
 Bangalore.

1033

MEMO.

As Sri S. Venkata Rao's claims have been settled with the management we are not pressing his case.

(Sd.) K. SATYANARAYANA,  
18-1-1967.

*Authorised Representative,  
First Party.*

Filed, Marked Ex. A.  
Intd. P.T.K.  
18/1.

"Copy"

P. T. KADKOL,  
*Presiding Officer,  
Labour Court, Bangalore.*

IN THE COURT OF THE PRESIDING OFFICER, LABOUR  
COURT, BANGALORE.

*Ref. No. 87. of 1966.*

*First Party—*

Working Journalists of National Newspapers, Represented by the  
the K. U. W. J., Bangalore.

*Vs.*

*Second Party.—*

Management of the National News Papers, Prop., Tainadu  
Publication, Bangalore.

*The first party above named begs to file the following memo.*

In the case the question that has been referred to regarding the validity and justifiability of the retrenchment of 3 working journalists. Out of the 3 W.Js. the case of one W.J. namely Sri S. Venkata Rao has not been pressed. Regarding the other two W.Js. viz., Sri M. T. V. Acharya and Sri T. R. Varaha Murthy, if the retrenchment is held to be invalid they are entitled to be reinstated with full back wages and continuity of service. But is of submitted that the two W.Js. do not insist on the relief of reinstatement but

they may be granted compensation in lieu of reinstatement in the light of the decision of the Supreme Court on this point.

Bangalore,

(Sd.) K. SUBBA RAO,

*Advocate for 1st Party.*

*Dated: 12th January 1968.*

(Sd.) M. T. V. Acharya,  
12-1-68.

Presented by Mr. M. T. V. Acharya.  
in person. Ex. B.  
Intd. P.T.K.

—  
" Copy "

P. T. KADKOL,  
*Presiding Officer,*  
*Labour Court, Bangalore.*

# ORDER

*Bangalore, dated 3rd April 1968.*

S.O. 734.—WHEREAS by State Government Order No. LMA 49 LLD 66, dated 28th June 1966, the Industrial Dispute between the Workmen and the Management of TaTinadu Publications, No. 22, CCubbon Road, Bangalore-1, was referred to the Labour Court, Bangalore for adjudication.

AND WHEREAS the Labour Court has submitted to the State Government its award in respect of the said Industrial Dispute ;

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. LMA 49 LLD 66.]

By Order and in the name of the Governor of Mysore,

G. G. PUROHIT,  
*Under Secretary to Government,*  
*Food, Civil Supplies and Labour Department.*